

Rich Baker

ESQUIRE
DEPOSITION SERVICES

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE DISTRICT OF MARYLAND</p> <p>3 (NORTHERN DIVISION)</p> <p>4 IN THE MATTER OF :</p> <p>5 THE COMPLAINT OF :</p> <p>6 ETERNITY SHIPPING, LTD.,: Civil Action</p> <p>7 and EUROCARRIERS, S.A. : No. L-01-CV-0250</p> <p>8 FOR EXONERATION FROM OR :</p> <p>9 LIMITATION OF LIABILITY : Pages 1-85</p> <p>10 -----</p> <p>11</p> <p>12</p> <p>13 Deposition of RICH BAKER</p> <p>14 Baltimore, Maryland</p> <p>15 Wednesday, January 22, 2003</p> <p>16</p> <p>17</p> <p>18</p> <p>19 Reported by: Kathleen P. Thompson, Notary Public</p> <p>20</p> <p>21</p>	<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 Ober, Kaler, Grimes & Shriver</p> <p>4 For the Limitation Plaintiffs Eternity Shipping,</p> <p>5 Ltd., and Eurocarriers, S.A.</p> <p>6 120 East Baltimore Street</p> <p>7 Baltimore, MD 21202</p> <p>8 (410) 685-1120</p> <p>9 BY: Eric M. Veit, Esq.</p> <p>10</p> <p>11</p> <p>12 Asperger, Caraher, L.L.C.</p> <p>13 For Tate & Lyle and Domino Sugar</p> <p>14 303 East Wacker Drive</p> <p>15 Chicago, IL 60601</p> <p>16 BY: Jeffrey J. Asperger, Esq.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p>
<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5 January 22, 2003</p> <p>6 4:38 p.m.</p> <p>7</p> <p>8</p> <p>9 Deposition of RICH BAKER held at the offices of:</p> <p>10</p> <p>11</p> <p>12 Domino Sugar</p> <p>13 Administration Building</p> <p>14 1100 Key Highway East</p> <p>15 Baltimore, MD 21230</p> <p>16</p> <p>17</p> <p>18 Pursuant to notice, before Kathleen P. Thompson,</p> <p>19 a Notary Public of the State of Maryland.</p> <p>20</p> <p>21</p>	<p style="text-align: right;">Page 4</p> <p>1 Hill, Rivkins & Hayden, L.L.P.</p> <p>2 For the Third-Party Defendant American Bureau of</p> <p>3 Shipping</p> <p>4 45 Broadway</p> <p>5 Suite 1500</p> <p>6 New York, NY 10006</p> <p>7 (212) 669-0600</p> <p>8 BY: James A. Saville, Jr., Esq.</p> <p>9 Robert G. Clyne, Esq.</p> <p>10</p> <p>11 -----</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p>

**DISK
ENCLOSED**

Rich Baker

<p style="text-align: right;">Page 45</p> <p>1 surveyor, or do you know what he is?</p> <p>2 A. We've used him in a number of different</p> <p>3 instances for different things, I couldn't tell</p> <p>4 you.</p> <p>5 Q. If you have an issue with a vessel he's</p> <p>6 the guy Domino calls?</p> <p>7 A. That's correct.</p> <p>8 Q. Where actually is he?</p> <p>9 A. I think he's right, I don't know if</p> <p>10 he's in New York --</p> <p>11 Q. There's a New York office listed at the</p> <p>12 top.</p> <p>13 A. I think that's where he's at.</p> <p>14 Q. At the top it says to Ed O'Rourke. Who</p> <p>15 is that?</p> <p>16 A. He's a gentleman in raw sugar that</p> <p>17 schedules ship arrivals for us.</p> <p>18 Q. Would he be the man that would call in</p> <p>19 Ross to come down?</p> <p>20 A. I called Ross.</p> <p>21 Q. So with respect to this particular</p>	<p style="text-align: right;">Page 47</p> <p>1 actual reports to anybody -- strike that. Do</p> <p>2 you know if he provided any other report to you?</p> <p>3 A. Not to me he didn't that I know of.</p> <p>4 Q. Do you know if he provided it to</p> <p>5 anybody else?</p> <p>6 A. I have no idea.</p> <p>7 Q. Okay. I'm looking at the first</p> <p>8 paragraph there, it says, "Mr. O'Rourke" -- if</p> <p>9 you had requested Ross to come down, do you know</p> <p>10 why he would have sent it to O'Rourke?</p> <p>11 A. Because Ed usually pays his bills.</p> <p>12 Q. That's who I would send it to.</p> <p>13 In looking at the top it says "for</p> <p>14 Mr. Rich Baker", and it's got, I'm assuming a</p> <p>15 fax number there. Do you know whose handwriting</p> <p>16 that is?</p> <p>17 A. It's not mine. I don't know whose that</p> <p>18 is.</p> <p>19 Q. Do you recall if Ed O'Rourke forwarded</p> <p>20 this document to you, or was this something that</p> <p>21 was sent directly by Ross to you?</p>
<p style="text-align: right;">Page 46</p> <p>1 visit, and it looks like in the re line there</p> <p>2 it's a visit regarding the LEON, you called Ross</p> <p>3 up to come down?</p> <p>4 A. Yes.</p> <p>5 Q. What was the purpose of your call, why</p> <p>6 did you call him?</p> <p>7 A. Because every time we have a problem</p> <p>8 with a vessel we've always called Ross in</p> <p>9 because he knows more about the vessels than we</p> <p>10 do. He's kind of our resident expert, if you</p> <p>11 will, to call.</p> <p>12 Q. All right. Did he investigate, as far</p> <p>13 as you know, the incident on the vessel?</p> <p>14 A. I was not with him so I don't know what</p> <p>15 he did exactly that day.</p> <p>16 Q. Did he provide a report to you?</p> <p>17 A. The only thing I've seen is this from</p> <p>18 him.</p> <p>19 Q. This one page document?</p> <p>20 A. Yes.</p> <p>21 Q. You don't know if he provided any other</p>	<p style="text-align: right;">Page 48</p> <p>1 A. I don't remember seeing it. I might</p> <p>2 have. I don't remember seeing it in particular.</p> <p>3 Q. So you have no independent recollection</p> <p>4 of seeing this?</p> <p>5 A. No.</p> <p>6 Q. Okay. In that first paragraph it says,</p> <p>7 "I attended aboard the captioned vessel on July</p> <p>8 29th to make an independent assessment of the</p> <p>9 cause and general scope of damages to the number</p> <p>10 2 crane resulting from the collapse of the</p> <p>11 vessel's crane on it". Is that what you told</p> <p>12 him to do?</p> <p>13 A. Yes, give us a general evaluation.</p> <p>14 Q. Of the cause and the general scope of</p> <p>15 damage?</p> <p>16 A. Uh-huh.</p> <p>17 Q. Now, referring to the cause, is it a</p> <p>18 cause of why the vessel's crane collapsed, or</p> <p>19 why number 2 collapsed? It's pretty obvious why</p> <p>20 2 collapsed because it fell on itself. It's not</p> <p>21 clear in the letter.</p>

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1 A. I think he just was saying come in and
2 tell us why the crane on the ship collapsed.
3 MS. ASPERGER: For the record, you're
4 asking him to speculate what Ross was intending
5 in the letter. He can't do that.
6 MR. SAVILLE: I'm just trying to get
7 what knowledge I can. If he can't do it, he
8 can tell me.
9 MR. ASPERGER: I object for the
10 record to the speculation.
11 Q. (By Mr. Saville) The next paragraph
12 there, it says, "This is clearly a case of
13 vessel's fault." Do you know why he made that
14 statement or what facts he used to reach that
15 conclusion?
16 A. Yeah. Same one I did. The vessel's
17 crane was laying on top of ours.
18 Q. Other than the obvious, did he
19 investigate the cause of why the vessel's crane
20 was laying on top of yours?
21 A. Yeah, it was a parted cable.

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1 Q. Okay.
2 (Discussion off the record.)
3 Q. (By Mr. Saville) Looking down further,
4 were there any other discussions that you had
5 with Ross as to why the crane's wire parted?
6 A. No.
7 Q. Okay. Did you have any discussions
8 with anybody other than Ross, whether it be
9 Domino employees or stevedores, as to why the
10 crane's wire parted?
11 A. No.
12 Q. Okay.
13 (Discussion off the record.)
14 MR. SAVILLE: I'm going to show you
15 what we'll mark as the next Exhibit, Baker 3,
16 it's a two page document.
17 (Document was marked Baker
18 Deposition Exhibit No. 3.)
19 MR. ASPERGER: Maybe we should
20 staple it.
21 MR. SAVILLE: All right.

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1 MR. ASPERGER: First of all, you're
2 asking him to speculate as to what Ross meant
3 by this letter. Now, he's telling you based
4 upon his knowledge and experience.
5 Q. He says it's "clearly a case of
6 vessel's fault". I'm wondering if Ross told
7 you why?
8 MR. ASPERGER: Let me just instruct
9 him.
10 You need to listen to his questions
11 and answer his questions. He's asking you if
12 Ross told you this. Any one of us can read
13 this letter and speculate what Ross was
14 thinking. He doesn't want you to do that.
15 Q. Correct. I'm asking if Ross told
16 you.
17 A. All Ross told me that day was it
18 looks as though the ship's cables, the crane
19 on the ship, the cable parted, that caused
20 that crane to fall onto ours, that's what
21 Ross told me.

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1 MR. VEIT: There's no Bates stamp on
2 there, right?
3 MR. SAVILLE: No.
4 Q. (By Mr. Saville) Mr. Baker, as you
5 look at it, my question is simply have you seen
6 this document before?
7 A. This was a --
8 MR. ASPERGER: Have you seen it
9 before. That's the question.
10 A. Yes.
11 Q. Do you know what it is?
12 A. Yeah. Basically it's an outline of
13 a scope of work, rough scope of work to
14 replace the crane, repair the crane we had on
15 the dock.
16 Q. Number 2 crane?
17 A. Yes.
18 Q. Do you know who it was prepared by?
19 A. To me, the handwriting looks like
20 Mark Pleiss, but I can't swear to it, so the
21 answer is no.

WILLIAMS & ROSS, INC.*Marine Surveyors & Consultants**Tampa Office: 12718 Burmah Ct.
Odessa, FL 33556**New York Office: 71-44 Juno Street
Forest Hills, NY 11375**Tampa Ph.: 813 920 7664
Fax: 813 920 4664**NY Ph.: 718 261 9677
NY Fax: 718 261 2437**FOL MR. RICH BAKER*

July 31, 2000

410 783-8612

TO: Mr. Ed O'Rourke: Fax No. 1 201 508 3739: One Page

RE: M.V. LEON I- BALTIMORE-DAMAGE TO NO. 2 SHORE CRANE-
FIRST ADVICE

Dear Mr. O'Rourke:

I attended aboard the captioned vessel on the morning of July 29, 2000 to make an independent assessment of the cause and general scope of damages to the No. 2 crane, resulting from the collapse of a vessel's crane upon it.

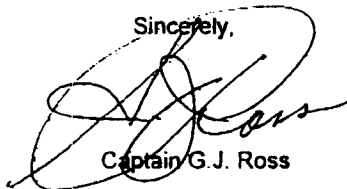
This is clearly a case of vessel's fault, involving nothing ascribable to your personnel or equipment. Accordingly, if not already done, you should place the Owner's and Master of the vessel on notice, holding them liable for any and all damages arising from this event. Further, steps should be taken to assure that adequate security is obtained from the Owners, or the vessel's P&I Club, prior to the completion of discharge.

Unless already done, the vessel and your underwriters should be notified to attend a joint survey with your appointed repairer, to set out the details of the damages incurred and the repairs required. Such survey should include an extensive examination of the entire crane structure, to assure that all items of damage are included.

I had a preliminary discussion with your personnel as to the need to keep detailed records of direct costs involved for inclusion in your claim. You will also suffer consequential damages in the delays to vessels waiting to discharge, but such damages are likely too remote to be sustainable, but should be documented nonetheless.

As you are aware, we are experienced in such matters and would be pleased to assist your local staff with the compilation of the claim and to offer any professional assistance required by your legal department,

Sincerely,



Captain G.J. Ross

FAX COPY TO: W&R NY

mw/00-239.LEON I

EXHIBIT*2**Baker**2-031K*

TL 000068

The services of this corporation are offered and this report or certificate is issued on the following conditions: That while Williams & Ross, Inc., its surveyors, employees, representatives or agents use their best endeavors in behalf of whom this survey is made, neither Williams & Ross, Inc., its directors, officers, surveyors, employees, representatives or agents, are under any circumstances whatsoever to be held responsible for any errors of judgment, default or negligence of any surveyors or other employees, representatives or agents of the corporation or for any inaccuracy, omission, misrepresentation or misstatement in any report or certificate.